

## **REMARKS**

Claims 1, 7-8 and 12 have been amended.

Claims 5-6 have been canceled.

Claim 22 has been added.

The assignee's attorney thanks the Examiner for his time and courtesy in the interview of November 16, 2006, which has advanced prosecution of this application.

## **35 U.S.C. §102**

MPEP 2131 quotes Verdegaal Brothers v. Union Oil of California, 814 F.2d 628, 631 (Fed. Cir. 1987) for the legal standard of anticipation: "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (emphasis added).

### **Claims 1-3, 7-22**

Amended claim 1 claims "[a] method of forming an anastomosis between a graft vessel and a target vessel, each vessel having a lumen therein and a wall around the lumen; the method comprising: providing an anastomosis device and an expander; connecting an end of the graft vessel to said anastomosis device; delivering at least a portion of the anastomosis device into the lumen of the target vessel through an opening in the wall of the target vessel; manipulating said anastomosis device to form a first flange therein, said first flange positioned in the lumen of the target vessel and spaced apart from the wall of the target vessel; wherein said manipulating includes translating said expander relative to said anastomosis device, and wherein said manipulating completely forms said first flange; and moving said first flange into contact with the wall of the target vessel after said manipulating is complete."

In contrast, neither U.S. Pat. No. 6,461,320 to Yencho et. al. (“Yencho”) nor U.S. Pat. No. 6,113,612 to Swanson et. al. (“Swanson”) describes the claimed “manipulating said anastomosis device to form a first flange therein, said first flange positioned in the lumen of the target vessel and spaced apart from the wall of the target vessel...wherein said manipulating completely forms said first flange; and moving said first flange into contact with the wall of the target vessel after said manipulating is complete.”

Instead, Swanson describes moving a flange into contact with the wall of the target vessel during, rather than after, formation of that flange. Upon inflation of a balloon 110, the connector is annularly enlarged, and members 42 of the connector both flare out and move proximally into contact with the wall of the conduit 300: “axial shortening of connector 10 that accompanies annular enlargement ensures that graft 120 is drawn into secure and fluid-tight engagement with conduit 300.” (Swanson; col. 7, lines 61-63; *see* col. 11, line 54 through col. 12, line 7; Figures 9-10). Axial shortening accompanies annular enlargement of all of the connectors described in Swanson. (Swanson; col. 10, lines 36-42). Indeed, Swanson describes that it is important to “ensure that the connector does not slip out of engagement with conduit 300 [*i.e.*, the target vessel] during annular enlargement of the connector.” (Swanson; col. 12, lines 28-32) (emphasis added).

Yencho also describes moving a flange into contact with the wall of the target vessel during, rather than after, formation of that flange. “During deployment of the distal end flange, the stent body longitudinally collapses, and the distal end flange is positioned at least in part within the wall of the target vessel.” (Yencho; col. 10, lines 61-63; Figures 18-19) (emphasis added).

Thus, neither Swanson nor Yencho expressly or inherently disclose the claimed “manipulating said anastomosis device to form a first flange therein, said first flange positioned in the lumen of the target vessel and spaced apart from the wall of the target vessel...wherein said manipulating completely forms said first flange; and moving said first flange into contact with the wall of the target vessel after said manipulating is complete.” (emphasis added). Consequently, it is

believed that amended claim 1 is in condition for allowance. Claims 2-3 and 7-22 depend from claim 1, and are thus believed to be in condition for allowance as well under MPEP 608.01(n)(III).

**REQUEST FOR ALLOWANCE**

Allowance of the pending claims is respectfully solicited. Please contact the undersigned if there are any questions.

Respectfully submitted,

/Brian A. Schar, Esq./

Brian A. Schar, Esq.  
Reg. No. 45,076  
Director of Intellectual Property  
Cardica, Inc.  
900 Saginaw Drive  
Redwood City, CA 94063  
(650) 331-7162